



Reprinted
February 4, 2009

SENATE BILL No. 16

DIGEST OF SB 16 (Updated February 3, 2009 1:50 pm - DI 96)

Citations Affected: IC 5-2; IC 9-13; IC 9-24; IC 9-29; IC 9-30; IC 20-19; IC 26-2; IC 33-39; IC 34-28; noncode.

Synopsis: Learner's permits and graduated licenses. Raises the minimum age for the issuance of a learner's permit. Raises the minimum age for the issuance of a probationary operator's license. Sets requirements for practice driving before a probationary operator's license can be issued. Prohibits a driver under the age of 18 from operating a motor vehicle while using a telecommunications device except for a 911 emergency call. Revises the period during which certain passengers may not accompany a probationary driver. Revises the hours when nighttime driving is prohibited by certain probationary drivers. Specifies the periods of validity of an operator's learner permit. Requires the state board of education and the criminal justice institute to adopt rules specifying that the classroom portion of driver's education may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age. Makes the holder of a probationary license ineligible for pretrial diversion or deferral with respect to certain alleged offenses and infractions involving motor vehicles. Makes corresponding changes and conforming amendments. Removes outdated language. (The introduced version of this bill was prepared by the interim study committee on learner's permits and graduated driver's licenses.)

Effective: Upon passage; July 1, 2009.

**Holdman, Wyss, Tallian, Yoder,
Kruse, Gard, Charbonneau, Lanane,
Brodén, Lewis, Rogers**

January 7, 2009, read first time and referred to Committee on Homeland Security,
Transportation & Veterans Affairs.
January 29, 2009, amended, reported favorably — Do Pass.
February 3, 2009, read second time, amended, ordered engrossed.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 16

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-6.5-9, AS ADDED BY P.L.107-2008,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 9. (a) To establish or operate a commercial driver
4 training school, the commercial driver training school must obtain a
5 commercial driver training school license from the institute in the
6 manner and form prescribed by the institute.
7 (b) Subject to subsections (c) and (d), the institute shall adopt rules
8 under IC 4-22-2 that state the requirements for obtaining a commercial
9 driver training school license, including the following:
10 (1) Location of the commercial driver training school.
11 (2) Equipment required.
12 (3) Courses of instruction.
13 (4) Instructors.
14 (5) Previous records of the commercial driver training school and
15 instructors.
16 (6) Financial statements.
17 (7) Schedule of fees and charges.

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(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the institute considers necessary to adequately protect the interests of the public.

(10) Other matters the institute prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed commercial driver training school to provide classroom training during which an instructor is present in a county outside the county where the commercial driver training school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-19-2-8;

(3) a nonpublic secondary school recognized under IC 20-19-2-10;

(4) a state educational institution; or

(5) a nonaccredited nonpublic school.

However, the rules must provide that a licensed commercial driver training school may provide classroom training in an entity listed in subdivisions (1) through (3) only if the governing body of the entity approves the delivery of the training to its students.

(d) Notwithstanding subsection (b)(3), the rules adopted under subsection (b) must provide that the classroom instruction and the practice driving instruction required for students of a commercial driver training school be the same as the rules adopted by the state board of education under IC 20-19-2-8(4) concerning the standards for driver education programs, including classroom instruction and practice driving.

(e) The rules adopted under subsection (b) must provide that the classroom training portion of driver education instruction may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

SECTION 2. IC 9-13-2-177.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 177.3. "Telecommunications device", for purposes of IC 9-24-11-3.3, has the meaning set forth in IC 9-24-11-0.5.**

SECTION 3. IC 9-24-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except as otherwise provided in this article, the bureau shall issue an operator's license to an individual who meets the following conditions:

(1) Satisfies the age requirements ~~described~~ **set forth** in section

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2 or section 2.5 of this chapter.

(2) Makes proper application to the bureau under IC 9-24-9 upon a form prescribed by the bureau. **Effective January 1, 2010, the form must include a verification concerning the number of hours of supervised driving practice that the individual has completed if the individual is required under section 2.5 of this chapter to complete a certain number of hours of supervised driving practice in order to receive an operator's license.**

(3) Satisfactorily passes the examination and tests required for issuance of an operator's license under IC 9-24-10.

(4) Pays the fee prescribed by IC 9-29-9.

SECTION 4. IC 9-24-3-2, AS AMENDED BY P.L.156-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in section 3 of this chapter, an individual must meet one (1) of the following conditions to receive an operator's license:

(1) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and thirty (30) days of age.

(B) Has held a valid learner's permit at least sixty (60) days.

(C) Has obtained an instructor's certification that the applicant has satisfactorily completed an approved driver education course.

(D) Has passed the required examination.

(2) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has held a valid learner's permit for at least sixty (60) days.

(C) Has passed the required examination.

(3) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has, within the past three (3) years, held an Indiana operator's, chauffeur's, or public passenger chauffeur's license that has not been suspended or revoked.

(C) Passes the required examination.

(4) The applicant meets the following conditions:

(A) Is at least sixteen (16) years and one hundred eighty (180) days of age.

(B) Has previously been a nonresident of Indiana but who, at the time of application, qualifies as an Indiana resident.

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- (C) Has held for at least one (1) year an unrevoked operator's, chauffeur's, or public passenger chauffeur's license in the state, district, or county in which the applicant has been a resident.
- (D) Passes the required examination.

(b) This section expires December 31, 2009. The expiration of this section does not affect the validity of an operator's license issued under this section.

SECTION 5. IC 9-24-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) This section applies beginning January 1, 2010.**

(b) Except as provided in section 3 of this chapter, an individual must satisfy the requirements set forth in one (1) of the following subdivisions to receive an operator's license:

(1) The individual meets the following conditions:

- (A) Is at least sixteen (16) years and one hundred eighty (180) days of age.
- (B) Has held a valid learner's permit for at least one hundred eighty (180) days.
- (C) Obtains an instructor's certification that the individual has satisfactorily completed an approved driver education course.
- (D) Passes the required examination.
- (E) Completes at least fifty (50) hours of supervised driving practice, of which at least ten (10) hours are nighttime driving, with a licensed instructor or a licensed driver who is at least twenty-five (25) years of age.

(2) The individual meets the following conditions:

- (A) Is at least seventeen (17) years of age.
- (B) Has held a valid learner's permit for at least one hundred eighty (180) days.
- (C) Passes the required examination.
- (D) Completes at least fifty (50) hours of supervised driving practice, of which at least ten (10) hours are nighttime driving, with a licensed instructor or a licensed driver who is at least twenty-five (25) years of age.

(3) The individual meets the following conditions:

- (A) Is at least sixteen (16) years and one hundred eighty (180) days of age.
- (B) Has previously been a nonresident of Indiana but, at the time of application, qualifies as an Indiana resident.
- (C) Has held an unrevoked operator's, chauffeur's, or

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1 public passenger chauffeur's license for at least one (1)
 2 year in the state, district, or county in which the applicant
 3 has been a resident.

4 **(D) Passes the required examination.**

5 SECTION 6. IC 9-24-7-1 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) This subsection expires**
 7 **December 31, 2009.** The bureau shall issue a learner's permit to an
 8 individual who meets the following conditions:

- 9 (1) Is at least fifteen (15) years of age.
 10 (2) If less than eighteen (18) years of age, is not ineligible under
 11 IC 9-24-2-1.
 12 (3) Is enrolled in an approved driver education course.

13 **(b) This subsection applies beginning January 1, 2010. The**
 14 **bureau shall issue a learner's permit to an individual who meets**
 15 **the following conditions:**

- 16 (1) Is at least fifteen (15) years and one hundred eighty (180)
 17 days of age.
 18 (2) If less than eighteen (18) years of age, is not ineligible
 19 under IC 9-24-2-1.
 20 (3) Is enrolled in an approved driver education course.

21 SECTION 7. IC 9-24-11-0.5 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2009]: Sec. 0.5. As used in this chapter, "telecommunications
 24 device" means an electronic or digital telecommunications device.

25 SECTION 8. IC 9-24-11-3, AS AMENDED BY P.L.184-2007,
 26 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2009]: Sec. 3. **(a) This section applies to a probationary**
 28 **operator's license issued before July 1, 2009.**

29 ~~(a)~~ **(b)** A license issued to an individual less than eighteen (18)
 30 years of age is a probationary license.

31 ~~(b)~~ **(c)** An individual holds a probationary license subject to the
 32 following conditions:

- 33 (1) Except as provided in IC 31-37-3, the individual may not
 34 operate a motor vehicle during the curfew hours specified in
 35 IC 31-37-3-2.
 36 (2) During the ninety (90) days following the issuance of the
 37 probationary license, the individual may not operate a motor
 38 vehicle in which there are passengers unless another individual
 39 who:
 40 (A) is at least twenty-one (21) years of age; and
 41 (B) holds a valid operator's license issued under this article;
 42 is present in the front seat of the motor vehicle.

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(3) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

~~(c)~~ (d) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

~~(d)~~ (e) Except as provided in subsection ~~(c)~~, (f), a probationary license issued under this section:

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

~~(c)~~ (f) A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 9. IC 9-24-11-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. (a) This section applies to a probationary operator's license issued after June 30, 2009.**

(b) A license issued to or held by an individual less than eighteen (18) years of age is a probationary license.

(c) An individual holds a probationary license subject to the following conditions:

(1) Except as provided in subsection (e), the individual may not operate a motor vehicle from 10 p.m. until 5 a.m. of the following morning during the first one hundred eighty (180) days after issuance of the probationary license.

(2) Except as provided in subsection (e), subsequent to one hundred eighty (180) days after issuance of the probationary license, and until the individual becomes eighteen (18) years of age, an individual may not operate a motor vehicle:

(A) between 1 a.m. and 5 a.m. on a Saturday or Sunday;

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(B) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(C) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(3) Except as provided in subsection (f), during the one hundred eighty (180) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual:

(A) who:

(i) is at least twenty-five (25) years of age; and

(ii) holds a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license issued under this article; or

(B) who is a certified driver education instructor; is present in the front seat of the motor vehicle.

(4) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle have:

(A) a safety belt; or

(B) if the occupant is a child who must be properly fastened and restrained in a child restraint system according to the manufacturer's instructions under IC 9-19-11, a child restraint system; properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(d) An individual who holds a probationary license to which this section applies may not operate a motor vehicle while using a telecommunications device unless the telecommunications device is being used to make a 911 emergency call.

(e) An individual may operate a motor vehicle during the period referred to in subsection (c)(1) or (c)(2) if the individual operates the motor vehicle while:

(1) participating in, going to, or returning from:

(A) lawful employment;

(B) a school sanctioned activity; or

(C) a religious event; or

(2) accompanied by a licensed driver at least twenty-five (25) years of age.

(f) An individual subject to this section may operate a motor vehicle and transport:

(1) a child of the individual;

(2) a sibling of the individual; or

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**(3) a child and a sibling of the individual;
without another accompanying individual present in the motor vehicle.**

SECTION 10. IC 9-24-12-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. (a) This subsection:**

(1) applies to a learner's permit issued before January 1, 2010; and

(2) expires January 1, 2011.

A learner's permit issued under this article expires one (1) year after the date of issuance.

(b) This subsection:

(1) applies beginning January 1, 2010; and

(2) applies to a learner's permit issued after December 31, 2009.

A learner's permit issued under this article expires two (2) years after the date of issuance.

SECTION 11. IC 9-24-12-1, AS AMENDED BY P.L.184-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1. (a) Except as provided in subsection subsections (b) and (d) and section 10 of this chapter, an operator's license issued under this article before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.**

(b) Except as provided in sections 10, 11, and 12 of this chapter, an operator's license issued to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) Except as provided in subsections (b) and (d) and sections 10, 11, and 12 of this chapter, after ~~December 31, 2005~~, an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(d) A probationary operator's license issued under IC 9-24-11-3 or IC 9-24-11-3.3 expires at midnight of the twenty-first birthday of the holder.

SECTION 12. IC 9-29-1-2, AS AMENDED BY P.L.63-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2. (a) Money from the increases in fees levied by the 1969 regular session of the general assembly in IC 9-18-2, IC 9-18-5, IC 9-18-6, IC 9-18-7, IC 9-18-9, IC 9-18-10, IC 9-18-16, IC 9-24-3, IC 9-24-4, IC 9-24-5, IC 9-24-7, IC 9-24-8, IC 9-24-10, IC 9-24-11, IC 9-24-12, IC 9-24-13, IC 9-24-14, and IC 9-29-9-15**

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(IC 9-1-4 before its repeal on July 1, 1991) shall be deposited daily with the treasurer of state and credited to the highway, road, and street fund established under IC 8-14-2-2.1.

(b) For the purpose of providing adequate and sufficient funds for the crossroads 2000 fund established under IC 8-14-10-9, and subject to subsection (c), after June 30, 1997, with the approval of the bureau of motor vehicles commission the bureau of motor vehicles may adopt rules under IC 4-22-2 to increase, by an amount that is in addition to the fees specified by statute, the fees under the following:

IC 9-29-4-3

IC 9-29-5

IC 9-29-9-1

IC 9-29-9-2

IC 9-29-9-3

IC 9-29-9-3.5

IC 9-29-9-4

IC 9-29-9-5

IC 9-29-9-6

IC 9-29-9-7

IC 9-29-9-8

IC 9-29-9-9

IC 9-29-9-10

IC 9-29-9-11

IC 9-29-9-13

IC 9-29-9-14

IC 9-29-15-1

IC 9-29-15-2

IC 9-29-15-3

IC 9-29-15-4

The amount of fees increased under this section shall first be deposited into the crossroads 2000 fund established under IC 8-14-10-9.

(c) The bureau's authority to adopt rules under subsection (b) is subject to the condition that a fee increase must be uniform throughout all license branches and at all partial service locations in Indiana.

(d) If a fee imposed by a statute listed in subsection (b) is eliminated, the amount of the fee increase set forth in a rule adopted under this section before July 1, 2007, with respect to the fee must be:

(1) collected by the bureau notwithstanding the elimination of the underlying fee;

(2) collected in addition to all other fees collected at the time of the underlying transaction; and

(3) deposited in the crossroads 2000 fund established under

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1 IC 8-14-10-9.

2 SECTION 13. IC 9-29-9-2, AS AMENDED BY P.L.156-2006,
3 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 2. (a) The fee for an operator's license issued
5 under IC 9-24-3 or renewed under IC 9-24-12 to an individual who is:

6 (1) less than seventy-five (75) years of age is nine dollars (\$9);

7 and

8 (2) at least seventy-five (75) years of age is six dollars (\$6).

9 (b) ~~After June 30, 2006,~~ The fee for a probationary license issued
10 under ~~IC 9-24-11-3(d)~~ **IC 9-24-11-3 or IC 9-24-11-3.3** is six dollars
11 (\$6).

12 SECTION 14. IC 9-30-3-12 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) If during any
14 twelve (12) month period a person has committed moving traffic
15 violations for which the person has:

16 (1) been convicted of at least two (2) traffic misdemeanors;

17 (2) had at least two (2) traffic judgments entered against the
18 person; or

19 (3) been convicted of at least one (1) traffic misdemeanor and has
20 had at least one (1) traffic judgment entered against the person;

21 the bureau may require the person to attend and satisfactorily complete
22 a defensive driving school program. The person shall pay all applicable
23 fees required by the bureau.

24 (b) This subsection applies to an individual who holds a
25 probationary license under IC 9-24-11-3 **or IC 9-24-11-3.3** or is less
26 than eighteen (18) years of age. An individual is required to attend and
27 satisfactorily complete a defensive driving school program if either of
28 the following occurs at least twice or if both of the following have
29 occurred:

30 (1) The individual has been convicted of a moving traffic offense
31 (as defined in section 14(a) of this chapter), other than an offense
32 that solely involves motor vehicle equipment.

33 (2) The individual has been the operator of a motor vehicle
34 involved in an accident for which a report is required to be filed
35 under IC 9-26-2.

36 The individual shall pay all applicable fees required by the bureau.

37 (c) The bureau may suspend the driving license of any person who:

38 (1) fails to attend a defensive driving school program; or

39 (2) fails to satisfactorily complete a defensive driving school
40 program;

41 as required by this section.

42 (d) Notwithstanding IC 33-37-4-2, any court may suspend one-half

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(1/2) of each applicable court cost for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 15. IC 20-19-2-8, AS AMENDED BY P.L.146-2008, SECTION 450, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) In addition to any other powers and duties prescribed by law, the state board shall adopt rules under IC 4-22-2 concerning, but not limited to, the following matters:

(1) The designation and employment of the employees and consultants necessary for the department. The state board shall fix the compensation of employees of the department, subject to the approval of the budget committee and the governor under IC 4-12-2.

(2) The establishment and maintenance of standards and guidelines for media centers, libraries, instructional materials centers, or any other area or system of areas in a school where a full range of information sources, associated equipment, and services from professional media staff are accessible to the school community. With regard to library automation systems, the state board may only adopt rules that meet the standards established by the state library board for library automation systems under IC 4-23-7.1-11(b).

(3) The establishment and maintenance of standards for student personnel and guidance services.

(4) The establishment and maintenance of minimum standards for driver education programs (including classroom instruction and practice driving) and equipment. Classroom instruction standards established under this subdivision must include instruction about:

(A) railroad-highway grade crossing safety; and

(B) the procedure for participation in the human organ donor program;

and must provide that the classroom instruction may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.

(5) The inspection of all public schools in Indiana to determine the condition of the schools. The state board shall establish standards governing the accreditation of public schools. Observance of:

(A) IC 20-31-4;

(B) IC 20-28-5-2;

(C) IC 20-28-6-3 through IC 20-28-6-7;

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(D) IC 20-28-9-7 and IC 20-28-9-8;

(E) IC 20-28-11; and

(F) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, and IC 20-32-8;

is a prerequisite to the accreditation of a school. Local public school officials shall make the reports required of them and otherwise cooperate with the state board regarding required inspections. Nonpublic schools may also request the inspection for classification purposes. Compliance with the building and site guidelines adopted by the state board is not a prerequisite of accreditation.

(6) Subject to section 9 of this chapter, the adoption and approval of textbooks under IC 20-20-5.

(7) The distribution of funds and revenues appropriated for the support of schools in the state.

(8) The state board may not establish an accreditation system for nonpublic schools that is less stringent than the accreditation system for public schools.

(9) A separate system for recognizing nonpublic schools under IC 20-19-2-10. Recognition of nonpublic schools under this subdivision constitutes the system of regulatory standards that apply to nonpublic schools that seek to qualify for the system of recognition.

(10) The establishment and enforcement of standards and guidelines concerning the safety of students participating in cheerleading activities.

(b) Before final adoption of any rule, the state board shall make a finding on the estimated fiscal impact that the rule will have on school corporations.

SECTION 16. IC 26-2-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A person who knowingly violates this chapter commits a Class C infraction. Each violation of this chapter constitutes a separate infraction.

(b) In addition to any other available legal remedy, a person who violates the terms of an injunction issued under section 5 of this chapter commits a Class A infraction. Each violation of the terms of an injunction issued under section 5 of this chapter constitutes a separate infraction. Whenever the court determines that the terms of an injunction issued under section 5 of this chapter have been violated, the court shall award reasonable costs to the state.

(c) Notwithstanding ~~IC 34-28-5-1(a)~~, IC 34-28-5-1(b), the prosecuting attorney or the attorney general in the name of the state

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may bring an action to petition for the recovery of the penalties outlined in this section.

SECTION 17. IC 33-39-1-8, AS AMENDED BY P.L.234-2007, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or charged with:

- (1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or
- (2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:
 - (A) intoxication; or
 - (B) the operation of a motor vehicle;

if the offense involving intoxication or the operation of a motor vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(c) This section does not apply to a person:

(1) who is arrested for or charged with an offense under:

- (A) IC 7.1-5-7-7(a), if the alleged offense occurred while the person was operating a motor vehicle;**
- (B) IC 9-30-4-8(a), if the alleged offense occurred while the person was operating a motor vehicle;**
- (C) IC 35-42-2-2(c)(1);**
- (D) IC 35-42-2-4(b)(1); or**
- (E) IC 35-43-1-2(a), if the alleged offense occurred while the person was operating a motor vehicle; and**

(2) who held a probationary license (as defined in IC 9-24-11-3(b) or IC 9-24-11-3.3(b)) and was less than eighteen (18) years of age at the time of the alleged offense.

~~(c)~~ **(d)** A prosecuting attorney may withhold prosecution against an accused person if:

- (1) the person is charged with a misdemeanor;
- (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney;
- (3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; and

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(4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

~~(d)~~ (e) An agreement under subsection ~~(c)~~ (d) may include conditions that the person:

- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;
- (2) work faithfully at a suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment;
- (3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;
- (4) support the person's dependents and meet other family responsibilities;
- (5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;
- (6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;
- (7) report to the prosecuting attorney at reasonable times;
- (8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and
- (9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

~~(e)~~ (f) An agreement under subsection ~~(c)(2)~~ (d)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

~~(f)~~ (g) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

~~(g)~~ (h) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

~~(h)~~ (i) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection ~~(d)(6)~~ (e)(6):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 18. IC 34-28-5-1, AS AMENDED BY P.L.200-2005,

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SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a) As used in this section, "probationary license" has the meaning set forth in IC 9-24-11-3(a) or IC 9-24-11-3.3(b).**

~~(a)~~ **(b)** An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any judicial circuit sharing the common boundary may bring the action.

~~(b)~~ **(c)** An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

~~(c)~~ **(d)** Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

~~(d)~~ **(e)** The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

~~(e)~~ **(f)** The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

~~(f)~~ **(g) Subsection (h) does not apply to an individual holding a probationary license who is alleged to have committed an infraction under any of the following:**

IC 9-19

IC 9-21

IC 9-24

IC 9-25

IC 9-26

IC 9-30-5

IC 9-30-10

IC 9-30-15.

(h) This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle. The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral

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1 program offered by the prosecuting attorney or the attorney for a
2 municipal corporation;

3 (2) the defendant in the action agrees to pay to the clerk of the
4 court an initial user's fee and monthly user's fee set by the
5 prosecuting attorney or the attorney for the municipal corporation
6 in accordance with IC 33-37-4-2(e);

7 (3) the terms of the agreement are recorded in an instrument
8 signed by the defendant and the prosecuting attorney or the
9 attorney for the municipal corporation;

10 (4) the defendant in the action agrees to pay a fee of seventy
11 dollars (\$70) to the clerk of court if the action involves a moving
12 traffic offense (as defined in IC 9-13-2-110);

13 (5) the agreement is filed in the court in which the action is
14 brought; and

15 (6) if the deferral program is offered by the prosecuting attorney,
16 the prosecuting attorney electronically transmits information
17 required by the prosecuting attorneys council concerning the
18 withheld prosecution to the prosecuting attorneys council, in a
19 manner and format designated by the prosecuting attorneys
20 council.

21 When a defendant complies with the terms of an agreement filed under
22 this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting
23 attorney or the attorney for the municipal corporation shall request the
24 court to dismiss the action. Upon receipt of a request to dismiss an
25 action under this subsection, the court shall dismiss the action. An
26 action dismissed under this subsection (or IC 34-4-32-1(f) before its
27 repeal) may not be refiled.

28 ~~(g)~~ (i) If a judgment is entered against a defendant in an action to
29 enforce an ordinance, the defendant may perform community
30 restitution or service (as defined in IC 35-41-1-4.6) instead of paying
31 a monetary judgment for the ordinance violation as described in section
32 4(e) of this chapter if:

33 (1) the:

34 (A) defendant; and

35 (B) attorney for the municipal corporation;

36 agree to the defendant's performance of community restitution or
37 service instead of the payment of a monetary judgment;

38 (2) the terms of the agreement described in subdivision (1):

39 (A) include the amount of the judgment the municipal
40 corporation requests that the defendant pay under section 4(e)
41 of this chapter for the ordinance violation if the defendant fails
42 to perform the community restitution or service provided for

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- in the agreement as approved by the court; and
- (B) are recorded in a written instrument signed by the defendant and the attorney for the municipal corporation;
- (3) the agreement is filed in the court where the judgment was entered; and
- (4) the court approves the agreement.

If a defendant fails to comply with an agreement approved by a court under this subsection, the court shall require the defendant to pay up to the amount of the judgment requested in the action under section 4(e) of this chapter as if the defendant had not entered into an agreement under this subsection.

SECTION 19. IC 34-28-5-4, AS AMENDED BY P.L.200-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A judgment of up to ten thousand dollars (\$10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars (\$1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars (\$500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars (\$25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section ~~1(g)~~ **1(i)** of this chapter, a judgment:

- (1) up to the amount requested in the complaint; and
- (2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

SECTION 20. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 5-2-6.5-9(e), as added by this act, the criminal justice institute, under interim written guidelines approved by the executive director of the criminal justice institute, shall provide that, after June 30, 2009, the classroom training provided by licensed commercial driver training schools may not be provided to a child less than fifteen (15) years and one hundred eighty (180) days of age.**

(b) **This SECTION expires on the earlier of the following:**

- (1) **The date rules are adopted under IC 5-2-6.5-9(e), as added by this act.**
- (2) **December 31, 2010.**

SECTION 21. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 20-19-2-8(a)(4), as amended by this act, the Indiana state board of education, under interim written guidelines approved by the state superintendent of public instruction, shall**

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1 provide that, after June 30, 2009, the classroom training provided
 2 by licensed commercial driver training schools may not be
 3 provided to a child less than fifteen (15) years and one hundred
 4 eighty (180) days of age.

5 (b) This SECTION expires on the earlier of the following:

6 (1) The date rules are adopted under IC 20-19-2-8(a)(4), as
 7 amended by this act.

8 (2) December 31, 2010.

9 SECTION 22. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 16, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 31, after "years" insert "**and one hundred eighty (180) days**".

Page 7, delete lines 16 through 21.

Page 7, line 22, delete "(5)" and insert "(4)".

Page 8, delete lines 8 through 39.

Page 11, delete lines 6 through 10.

Page 12, line 33, after "years" insert "**and one hundred eighty (180) days**".

Page 14, line 31, after "IC 9-24-11-3.3(b))" insert "**and was less than eighteen (18) years of age**".

Page 18, line 31, after "years" insert "**and one hundred eighty (180) days**".

Page 18, delete lines 36 through 42.

Page 19, delete lines 1 through 3.

Page 19, line 10, after "years" insert "**and one hundred eighty (180) days**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 16 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 1.

 SENATE MOTION

Madam President: I move that Senate Bill 16 be amended to read as follows:

Page 7, line 28, delete "." and insert "**unless the telecommunications device is being used to make a 911 emergency call.**".

(Reference is to SB 16 as printed January 30, 2009.)

BUCK

SB 16—LS 6089/DI 96+



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